

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANLANDO McMILLIAN and U.S. POSTAL SERVICE,
POST OFFICE, Mobile, AL

*Docket No. 02-1421; Submitted on the Record;
Issued August 25, 2003*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant no longer had any continuing disability or residuals causally related to his federal employment.

On May 1, 2000 appellant, a 37-year-old mail carrier, filed a claim for compensation alleging that he sustained injuries to his neck and left shoulder while in the performance of duty. He identified February 14, 2000 as the date he first became aware of his employment-related condition. Appellant stopped work April 22, 2000. He returned to limited duty on May 1, 2000 and resumed his regular duties on August 25, 2000. The Office accepted appellant's claim for cervical, thoracic and left shoulder strains. The Office authorized surgery by Dr. Norman S. Lichtenfeld, a Board-certified orthopedic surgeon, to remove a left shoulder mass, which appellant underwent on October 5, 2000. Following surgery appellant returned to limited duty on October 23, 2000. Dr. Lichtenfeld subsequently released him to return to full duty on or about December 2, 2000.

Appellant requested a change of physicians and the Office referred him for a second opinion orthopedic examination in January 2001. In a report dated February 1, 2001, Dr. Raymond R. Fletcher, a Board-certified orthopedic surgeon, found that appellant's work injury had resolved with no ongoing residuals. He further stated that appellant was capable of performing his regular duties on a full-time basis.

In a decision dated February 16, 2001, the Office found that the medical evidence established that appellant no longer had residuals of his February 14, 2000 employment injury. Accordingly, the Office denied appellant's claim for continuing medical treatment.

Appellant requested an oral hearing, which was held on December 20, 2001. In a decision dated March 18, 2002, the Office hearing representative affirmed the February 16, 2001 decision.

The Board finds that the Office properly determined that appellant no longer had any continuing disability or residuals causally related to his accepted employment injury.

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.¹ Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.² The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.³ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁴

On November 3, 2000 appellant's treating physician, Dr. Lichtenfeld stated that appellant should not carry his mailbag for the next two weeks. He further indicated that, after November 17, 2000, appellant could carry his bag half a day for the next two weeks. On December 4, 2000 Dr. Lichtenfeld did not impose any further restrictions and advised that appellant was no longer under his care.

Dr. Fletcher, the Office referral physician, reported on February 1, 2001 that appellant's work injury had resolved without residuals and appellant was able to perform his regular duties on a full-time basis.

In March 2001 appellant sought treatment from Dr. Burt F. Taylor, a Board-certified orthopedic surgeon.⁵ In a report dated March 28, 2001, Dr. Taylor stated that appellant's neck and left shoulder symptoms were related to his daily work activities. His treatment notes for that day include diagnoses of left trapezius chronic strain, subacromial bursitis and left shoulder chronic muscle ligament strain. On April 4, 2001 Dr. Taylor reported that appellant was continuing to experience pain in his neck and shoulder regions. He further stated that some of appellant's problems were related to sorting mail in an overhead position and some symptoms were related to carrying a mailbag. On September 4, 2001 Dr. Taylor advised that appellant could return to work with a 10-pound lifting restriction. He further stated that appellant should avoid pushing and pulling and overhead work.

Dr. Taylor's several reports and treatment notes do not establish a causal relationship between appellant's current condition and his accepted occupational claim. He did not specifically relate appellant's current symptoms to his previously accepted condition. Rather, Dr. Taylor attributed appellant's condition to his recent daily work activities, suggesting a possible new injury.

¹ *Curtis Hall*, 45 ECAB 316 (1994).

² *Jason C. Armstrong*, 40 ECAB 907 (1989).

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

⁴ *Calvin S. Mays*, 39 ECAB 993 (1988).

⁵ Dr. Taylor had previously treated appellant in August 1999 for neck and left shoulder problems.

In July 2001 Dr. Taylor reported that appellant exhibited some stress-related symptoms and he recommended that appellant be evaluated by a psychologist. In a report dated July 25, 2001, Dr. Daniel L. Koch, a clinical psychologist, stated that appellant should be placed on sick leave for approximately 30 days because he required treatment for depression secondary to orthopedic pain. He diagnosed generalized anxiety disorder and later released appellant to return to full duty on September 10, 2001.

Where appellant claims that a condition not accepted or approved by the Office was due to his employment injury, he bears the burden of proof to establish that the condition is causally related to the employment injury.⁶ While Dr. Koch diagnosed generalized anxiety disorder and depression secondary to orthopedic pain, he did not specifically attribute either condition to appellant's February 14, 2000 employment injury.

The weight of the medical evidence, as represented by the opinions of Drs. Lichtenfeld and Fletcher, establish that appellant no longer suffers from residuals of his accepted employment injury. Accordingly, the Office properly denied appellant's claim for continuing medical treatment.

The March 18, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
August 25, 2003

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).